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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,524	02/17/2004	Harold G. Story	100-00258	1348

26753 7590 10/04/2005

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EXAMINER
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ZIRKER, DANIEL R

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/780,524

Applicant(s)

STORY, HAROLD G.

Examiner

Daniel Zirker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-83 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-83 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-83 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More particularly, the Examiner finds the recitation in each of the independent "coating" and coated packaging material claims that one of the ingredients may be "ammonia", which the Examiner believes is a gas at ambient temperatures, to be confusing. It is further noted that dependent claim 4 (and its corresponding dependent claims for the other independent claims) recites that "ammonia" may be either ammonium hydroxide, which is a salt, or aqueous ammonia, which is believed to be a fluid, as suitable species thereof. In summary, the Examiner realizes that this element may not be particularly easy to claim; the specification, e.g. at pages 10 and 11 seemed to teach that the ammonia content was an element of the rubber latex, and perhaps applicant might wish to amend along these lines. Clarification is requested.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-42, 53-57, and 59-83 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCarthy et al. The reference discloses (note particularly the

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Abstract, Col 1, lines 6-11, lines 40-44, line 65 – Col 2, line 23, Example 2, claims 1,5-7), in certain embodiments substantially an anticipation of at least the broad coating, packaging materials and methods of making a packaging material claims except that the ranges of proportions of all the various ingredients and an absence of a teaching that the acrylic emulsion is non self crosslinking do not appear to be present.

Additionally, it is further noted that a very large number of embodiments of the “pick and choose” variety are taught by the reference, thus making it difficult to consider its teachings anticipatory of even the broad independent claims. However, the reference clearly teaches a wide variety of water based cold seal adhesive and coated sheet embodiments which contain the presence of a natural rubber latex, an acrylic resin emulsion, and antifoam additives, as well as a broad range of proportions of the major ingredients which read upon at least the ranges of the natural rubber latex and the acrylic resin emulsion. Additionally, the Examiner believes that one of ordinary skill in the adhesive art would be quite aware of the desirability of not using acrylic emulsions which self crosslink and thus damage the adhesive strength of the cold seal adhesive. With respect to the method claims, these are seen to be little more than nominal in form, and with respect to the various ranges of proportions and specific embodiments of the additives these are each believed to be routine optimizations for the former or obvious selections for the latter for one of ordinary skill in the art, in the absence of unexpected results. .

5. Claims 43-52 and 58 are not rejected on the basis of adverse prior art.

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6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note particularly Bently et al, Krampe et al '682, '801, and '499, and the PGPub to Wasserman et al of which the applicant is a co-inventor.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Zirker whose telephone number is 571-272-1486. The examiner can normally be reached on Monday-Thursday from 8:30 to 6:00. The examiner can also be reached on alternate Fridays

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel Zirker  
Primary Examiner  
Art Unit 1771

A handwritten signature in black ink that reads "Daniel Zirker". The signature is written in a cursive, flowing style.